IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 472 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE H.K.RATHOD

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GSRTC - Petitioner(s)

Versus

MAGANBHAI RANCHHODBHAI THAKORE - Respondent(s)

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Appearance :

MR DIPEN A DESAI for Petitioner(s) : 1,
MR ND SONGARA for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE H.K.RATHOD

Date : 30/01/2006

ORAL JUDGMENT

1. Heard learned Advocate, Mr.Dipen A. Desai, for petitioner and learned Advocate, Mr.N.D.Songara, appearing on behalf of respondent.

2. The petitioner – Corporation has challenged the award passed by Labour Court, Nadiad in Reference No.99 of 1999 dated 4th September,2001, wherein, Labour Court, Nadiad has set aside dismissal order dated 8th March,1999 and granted reinstatement with continuity of service without back wages of interim period.

3. Learned Advocate, Mr.Desai, appearing on behalf of petitioner – Corporation has submitted that Labour Court has not given any reason in support of its conclusion and on what basis, the powers under Section 11-A has been exercised. For that, there is no justification given by Labour Court, Nadiad. He also submitted that, whether punishment of dismissal is disproportionate or not, that question is also not examined by Labour Court. He submitted that Labour Court has committed error in exercising the power under Section 11-A of the I.D.Act,1947. He also submitted that power under Section 11-A is not a power like veto, so the Labour Court can grant a relief of reinstatement without having any reason in support of his conclusion. Therefore, he submitted that Labour Court has committed gross error in coming to such conclusion and, therefore, award of the Labour Court may be set aside.

4. Learned Advocate, Mr.Songara, appearing on behalf of respondent – workman has submitted that except Para.7, no reason has been given by Labour Court in support of its conclusion. But, however, he supported the award passed by the Labour Court, Nadiad.

5. I have considered the submissions made by both the learned Advocates and I perused the award passed by Labour Court, Nadiad. The Labour Court, Nadiad has not discussed that what kind of misconduct has been committed by respondent – workman and what are the allegations made against respondent – workman by petitioner – Corporation. It was a case wherein workman hadc collected fare from different group of passengers between Udepur to Nathdwara and not issued the tickets to concerned passenger. At the time when the bus was checked, passengers were found without tickets. According to checking report, cash of Rs.1056/- was found. Whereas, according to account, it should have been Rs.1620/-. Therefore, there was a shortage of Rs.564/- and at the time of checking, conductor agreed to make payment of Rs.564/- to the petitioner – Corporation. Said admission was made before checking staff. Workman has admitted the legality and

validity of departmental inquiry and not admitted the finding given by the Inquiry Officer. No oral evidence was led by either party before the Labour Court and ultimately, Labour Court has come to conclusion that while exercising the power under Section 11-A of the I.D.Act,1947, the punishment which has been imposed by the Corporation to the respondent – workman is not proper and reasonable. Therefore, that order of dismissal is set aside. On what ground the punishment is not proper and reasonable, for that no reason has been given by Labour Court in support of its conclusion. Labour Court having power under Section 11-A in case when dismissal or discharge being a punishment is found to be unjustified, then, Labour Court should have exercised power with justification to modify the punishment. But, Labour Court should have to give cogent reason in support of such conclusion. But, in this case, no reason has been given by Labour Court, Nadiad. Therefore, according to my opinion, Labour Court has committed gross error which requires to be set aside the award in question.

6. In the result, award passed by Labour Court, Nadiad in Reference No.99 of 1999 dated 4th September,2001 is hereby quashed and set aside with a direction to the

Labour Court, Nadiad to decide afresh Reference No.99 of 1999 in accordance with law, after giving reasonable opportunity to the respective parties within a period of six months from the date of receiving writ of this order. Rule is made absolute with no order as to costs.

(H.K.RATHOD,J.)

(vipul)